CCRB INVESTIGATIVE RECOMMENDATION

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Investigator:		Team:	CCRB Case #:		Force		Discourt.	☐ U.S.
Rolando Vasquez		Squad #5	201707985	I	Abuse		O.L.	☐ Injury
				<u> </u>		T 40), cor	F0.001
Incident Date(s)		Location of Incident:		Pi	recinct:	18	Mo. SOL	EO SOL
Friday, 09/15/2017 10:15 AM		Central Park Driveway Circle	and Columbus		22	3,	/15/2019	3/15/2019
Date/Time CV Reported		CV Reported At:	How CV Reported	: [Date/Time	Rec	eived at CCI	RB
Thu, 09/28/2017 10:00 AM		CCRB	Mail	,	Thu, 09/28/2017 10:00 AM		I	
Complainant/Victim	Type	Home Addre	ess					
Witness(es)		Home Addre	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. POF Kandice Hall	13716	955833	047 PCT					
2. POM Giuseppe Cutaia	72	938309	112 PCT					
Officer(s)	Allegation	on			Inve	stiga	ator Recon	nmendation
A.POM Giuseppe Cutaia	Abuse: F	Police Officer Giuseppe	Cutaia stopped § 87(2)	(b)				
B.POF Kandice Hall	Abuse: Police Officer Kandice Hall stopped § 87(2)(b)							
C DOM Cincoppo Cutoio	Болоо В	aliaa Offican Ciusanna (Sutaio usad mbysical	form				
C.POM Giuseppe Cutaia	against §	e: Police Officer Giuseppe Cutaia used physical force						
D.POF Kandice Hall		olice Officer Kandice H	all used physical for	ce				

Case Summary This complaint was filed by § 87(2)(b) on September 28, 2017 with the CCRB by mail. On September 15, 2017, at approximately 10:15 a.m., § 87(2)(b) was walking in the vicinity of Central Park Driveway and Columbus Circle in Manhattan. While walking, \$87(2)(b) was stopped by PO Giuseppe Cutaia of the 112th Precinct and PO Kandice Hall of the 47th Precinct (Allegation A-B: Abuse of Authority, \$37(2)(9) The officers were assigned to a paid security detail at a bicycle rental stand in Central Park, PO Cutaia pushed [8] 87(2)(b) (Allegation C: Force, § 87(2)(9) PO Hall allegedly pushed § 87(2)(b) causing her to § 87(2) to the ground (Allegation D: Force, § 87(2)(9) No arrests or summonses resulted from this incident. The video evidence recovered of this incident did not capture the alleged actions (BR01-02). **Findings and Recommendations** Allegation A – Abuse of Authority: Police Officer Giuseppe Cutaia stopped [887(2)[5]] Allegation B – Abuse of Authority: Police Officer Kandice Hall stopped 887(2)(6) testified that she entered Central Park through the entrance near Columbus Circle intended to walk through the park to get to a friend. As she was walking, PO Cutaia and PO Hall stepped in front of her and would not let her pass, PO Cutaia and PO Hall told her she could not be in the park and could not be in that area. §87(2)(b) officers the park was a public place and she could walk wherever she wanted. § 87(2)(b) tried to walk around the officers but they still would not let her pass. and § 87(2)(b) were named by § 87(2)(b) and were identified as witnesses to this incident. § 87(2)(b) is a§ 87(2)(b) . Both witnesses were consistent in describing that they were familiar with § 87(2)(b) because she regularly works in the area soliciting witnesses described that on the incident date § 87(2)(b) had been walking around soliciting customers. in Central Park. An employee of the business, only identified as \$87(2)(b) was identified as a witness to this incident. and PO Cutaia both named [87(2)(b)] as being present when the incident occurred. § 87(2)(b) described that § 87(2)(b)

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companies are prohibited from advertising anywhere in Central Park. However, employees of

| Solicitors for rival

typically only instruct officers to keep solicitors away from the area immediately surrounding the rental stands.

submitted video which was recorded by \$87(2)(b) The video depicts the end of the incident in which \$87(2)(b) and other bystanders are arguing with the officers. In the video, \$87(2)(b) is seen holding advertising materials before placing it in her backpack. A screenshot from the video is included below on the left which shows \$87(2)(b) holding these materials (BR07). Embedded below on the right is a screenshot from the video of a sign positioned on the sidewalk next to the officers which states verbatim: "Official Authorized Bike Rental. Central Park Concession licensed by NYC Parks. No other individual or business is authorized to provide bike rentals at this location" (BR08).





PO Cutaia and PO Hall provided the following generally consistent testimony (BR09-10). The officers were assigned to a paid security detail for \$87(2)(b)

The officers were instructed by an employee that the business \$87(2)(b)

An employee of the company pointed out \$887(2)(b)

as a known solicitor. Shortly after their tour started, the officers observed \$87(2)(b)

walking around soliciting customers. In addition to being

the company pointed out \$87(2)(b) as a known solicitor. Shortly after their tour started, the officers observed \$87(2)(b) walking around soliciting customers. In addition to being informed of such by the employee, the officers believed she was soliciting because she was carrying a folder with flyers and she was talking to people making statements such as "Come see what I have" and "I have better bikes." \$87(2)(b) tried walking past the officers who were posted near the rental stand. The officers believed she was attempting to solicit near the rental stand at the time because she was still carrying the aforementioned folder. The officers stopped her from proceeding and did not let her pass because she was prohibited from soliciting in that area.

NYC Parks Rules and Regulations §1-04 (s) regarding unlawful solicitation states: "No person shall engage in any commercial activity or commercial speech in any park, except pursuant to a

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a misdemeanor" (BR11). Allegation C – Force: Police Officer Giuseppe Cutaia used physical force against §27(2)(b) Allegation D – Force: Police Officer Kandice Hall used physical force against 387(2)(5) testified that after the officers stood in her way and told her she could not pass, she stated, "This is a public place. I can walk wherever I want." \$37(2)(b) tried to walk around the officers but they remained in her way. § 87(2)(b) repeated, "Listen, I have to keep going. Excuse me, this is a public place." PO Cutaia pushed \$87(2)(6) a few times in the chest but without much force. \$87(2)(b) complained to PO Cutaia that he was sexually harassing her. PO Hall then pushed § 87(2)(b) with much greater force which caused said, "You cannot do what you're doing. PO Hall to lose her balance. § 87(2)(b) again. Because § 87(2)(b) was already off balance she fell backwards on to her bottom. § 87(2)(b) did not sustain any injuries due to this incident. Additional officers arrived. § 87(2)(b) explained to them what happened and she was advised on how she could file a complaint. and \$87(2)(b) both stated that their attention was diverted to an interaction between \$ and the officers by an audible commotion in which the officers were telling her that she could not pass. §87(2)(b) briefly verbally contested why she could not pass before PO Hall shoved her to the ground, § 87(2)(b) was not making any movements before she was pushed. \$87(2)(b) the employee of the rental stand, stated she heard a commotion behind her as she was helping a customer. \$87(2)(b) turned around and saw \$87(2)(b) walking into the officers. was watching this incident from behind the officers and could not tell if PO Hall pushed only saw that PO Hall had raised her arms in front of her as was walking forward. Almost immediately, \$87(2)(6) fell to the ground. PO Cutaia testified that he was posted near the rental stand. § 87(2)(b) approached and stated she wanted to speak with an employee of the rental stand. PO Cutaia believed intended to solicit customers, as described above, and did not let her pass. PO Cutaia she had to go around. §87(2)(6) stated, "I'm going to walk through you." PO Cutaia repeated his instruction that she had to go around. \$87(2)(6) I'm still going to go through you." § 87(2)(b) walked toward PO Cutaia until she was within arm's reach away. PO Cutaia placed an open palm on \$87(2)(b) shoulder and stiffened his Page 4

permit issued under § 1-03(b) and/or § 2-08 of these rules. Violation of this paragraph constitutes

arm to stop her from proceeding forward. S87(2)(b) stated, "Don't touch me" and threw herself backwards onto the ground. PO Cutaia denied that PO Hall ever pushed or used any physical force against S87(2)(b)
PO Hall testified that she was standing near the rental stand when \$87(2)(b) bumped into her as she tried walking past her. PO Hall put both of her hands up and pushed \$87(2)(b) backwards without much force to stop her from proceeding to solicit near the rental stand. PO Hall told \$87(2)(b) "You can't come past this area. I'm aware of what you're doing. Whatever you're doing, go do it somewhere else." \$87(2)(b) stated she was going to visit a friend which PO Hall did not believe because she had been observed soliciting, as described above. PO Hall told \$87(2)(b) "You can't come through this side. I specifically told you, whatever you're doing, do it on the other side. I know what you're doing." \$87(2)(b) stated, "You can't tell me what to do. It's a public park, I can walk wherever I want to walk." \$87(2)(c) proceeded to walk forward and bumped into PO Hall as she tried to get around her. PO Hall spun around and swung her arm around her at the same time to stop \$87(2)(c) from getting around her. PO Hall's arm touched \$87(2)(b) in the chest but PO Hall did not push her. \$87(2)(c) flung her arms in the air and threw herself backwards onto the ground.
PG 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances (BR12).
§ 87(2)(g)
Civilian and Officer CCRB Histories
 This is the first complaint filed by \$87(2)(5) with the CCRB (BR13). PO Cutaia has been a member of the service for 12 years and has no substantiated allegations. PO Cutaia has two prior physical force allegations which were exonerated by the Poord in CCPB Case 200614015 and 201100032.

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• PO Hall has been a member of the service for four years, has no substantiated allegations,

CCRB Case # 201707985

and§ 87(2)(g)

Mediation, Civil and Criminal Histories

 This complaint was suitable for mediation and it was offered to \$87(2)(b) over the phone and during her interview. \$87(2)(b) chose to have her complaint investigated. The NYC Comptroller's Office responded to a request indicating that no notice of claim has been filed by \$87(2)(b) regarding this incident (BR15). \$87(2)(b). \$87(2)(c) 									
Squad No.: 5									
Investigator:	Signature	Print Title & Name	Date						
Squad Leader:	Signature	Print Title & Name	Date						
Reviewer:	Signature	Print Title & Name	Date						

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